

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

ALVIN HOWARD CANELL,

Plaintiff,

v.

DEPARTMENT OF CORRECTIONS;
SARA DEVENY (AHTANUM VIEW
CORRECTIONS); KELLY WEST
(ACCOUNTANT, AVCC); ROY
GONZALES, DEPARTMENT OF
CORRECTIONS; RISA KLEMME
(AIRWAY HEIGHTS); OFFICER
BAILEY (AIRWAY HEIGHTS
PROPERTY OFFICER); MAGGIE
MILLER-STOUT
(SUPERINTENDENT AIRWAY
HEIGHTS),

Defendants.

NO. CV-09-3054-RHW

**ORDER DENYING
PLAINTIFF'S MOTION TO
COMPEL; GRANTING
DEFENDANTS' MOTION FOR
PROTECTIVE ORDER**

Before the Court is Plaintiff's Motion to Compel (Ct. Rec. 9) and Defendants' Motion for Protective Order (Ct. Rec. 15). Plaintiff's Motion to Compel is currently noted for hearing on January 22, 2010 with oral argument. The Court has reviewed the briefing and has determined that oral argument is not necessary. *See* LR 7.1(h)(3)(iii).

Plaintiff is an inmate who was housed at the Ahtanum View Corrections Center in Yakima, Washington (AVCC) and Airway Heights Corrections Center (AHCC) in 2008 and 2009. He is asserting three causes of actions under 42 U.S.C. § 1983:

(1) Defendant Theresa Bailey unlawfully confiscated a pair of boots in a

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1 property room search at Airway Heights Corrections Center;

2 (2) Defendant Maggie Miller-Stout, Risa Klemme, Teresa Baker, and Roy
3 Gonzalez violated his constitutional rights when an incoming letter to him was
4 unlawfully restricted at the Airway Heights Corrections Center mailroom;

5 (3) Defendants Kelly West and Sara Deveny unlawfully changed the AVCC
6 practice of debiting inmate accounts to pay for the costs of his legal postage and
7 legal copies and that they unlawfully sold envelopes for outgoing legal mail.

8 Plaintiff now moves to compel discovery and Defendants move for a
9 Protective Order to limit discovery.

10 In his Motion to Compel, Plaintiff states that he has requested discovery of
11 Defendants and Defendants objected to all requests and provided responses that
12 were incomplete, evasive, or failed to answer. Plaintiff states that the responses
13 were not answered in 30 days, and were not signed by each Defendant. Plaintiff
14 asserts that “Defendants should be ordered to provide responses to the discovery he
15 requested.” (Ct. Rec. 10).

16 According to Defendants, on June 30, 2009, they provided initial disclosures
17 that included 230 pages of documents. Through the course of discovery,
18 Defendants report that they have provided Plaintiff with 1,098 pages of documents.
19 Defendants also complain that Plaintiff has repeatedly issued discovery requests
20 for the same information before the answers to the prior requested discovery were
21 due.

22 In his response to Defendants’ Motion for Protective Order, Plaintiff admits
23 that he has asked Defendants the same question in interrogatories.

24 The Court concludes that Plaintiff has abused the discovery process as
25 evidenced by the quantity and nature of the discovery requests. Additionally,
26 Plaintiff’s motion does not adequately set forth the specific discovery issues for the
27 Court to rule on the motion. Plaintiff’s motion seeks the Court to order Defendants
28 “to provide response to the discovery he requested.” Fed. R. Civ. P. 33 and 34

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1 contemplate that a party may object to an interrogatory or request for production.
2 In bringing his motion to compel, Plaintiff was required to specifically identify
3 which interrogatory or request for production he was seeking an order compelling
4 disclosure or discovery. A general request to order Defendants to provide
5 responses is not helpful nor adequate for the Court to rule on the motion to compel
6 and does not permit the Court to rule on Defendant's objections. Finally, the Court
7 notes that the Federal Rules of Civil Procedure do not require that the individual
8 Defendants sign the responses, and in reviewing the responses provided by
9 Defendants, it is clear that Defendants answered many of the requests.

10 In their Motion, Defendants seek an order prohibiting Plaintiff from
11 requesting any further discovery responses and/or motions to compel responses
12 from Defendants. Although the Court notes that the discovery cutoff was January
13 4, 2010, it finds that good cause exists to grant the motion, due to Plaintiff's abuse
14 of the discovery process.

15 Accordingly, **IT IS HEREBY ORDERED:**

- 16 1. Plaintiff's Motion to Compel (Ct. Rec. 9) is **DENIED**.
- 17 2. Defendants' Motion for Protective Order (Ct. Rec. 15) is **GRANTED**.
- 18 3. Plaintiff is prohibited from filing any additional discovery requests or
19 motions to compel, absent a showing of good cause.
- 20 4. The hearing set for January 22, 2010 is **stricken**.

21 **IT IS SO ORDERED.** The District Court Executive is hereby directed to
22 enter this order and to furnish copies to Plaintiff and counsel.

23 **DATED** this 15th day of January, 2010.

24
25 s/Robert H. Whaley
26 ROBERT H. WHALEY
United States District Judge

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